



Rule Up For Final Action

Proposed Amendment to WAC 230-12-330

Availability of gambling equipment and related products and services--
Prices--Contracts--Discounts--Restrictions -- Exceptions.

ITEM 11 (a) on the September 10, 2004, Commission Meeting Agenda.

Statutory Authority 9.46.070

Who proposed the rule change?

Staff, at the request of the Commission.

Why is this rule change needed?

This rule requires distributors to sell gambling equipment and related products (for example, pull-tab games and merchandise prizes) for the same price to all their customers. The proposed change removes punch-board/pull-tab merchandise prizes from these pricing restrictions. This proposal originated at the request of the Commission, after considering a Petition for Rule Change last Spring which would have required licensure of anyone selling merchandise prizes for pull-tab games.

In June 2003, the Commission filed a Petition for Rule Change submitted by Spokane Pull-Tab and Bingo Supply, a licensed distributor, which sells pull-tab games and merchandise prizes to licensed pull-tab operators. The petitioner noted that unlicensed individuals/entities were selling merchandise prizes (not pull-tab games) to pull-tab operators and he was losing business because he, as a licensee, must follow discriminatory pricing restrictions, when others could discount or give away merchandise to increase business. Mr. Bailey felt the restrictions were not fair and his competition should be licensed and follow the same rules he does. Gasperetti's Distributing and Mr. Ed's Distributing supported the petition.

Staff advised the Commission that licensure of these individuals was a business and marketing issue, rather than a regulatory issue. We also questioned whether the Commission had the statutory authority to license these businesses. There are few problems associated with merchandise prizes and they account for a very small part of the pull-tab prize market, about 1% of pull-tab prizes given away in 2003. Over 336 million in cash prizes were given away in 2003, while 3.6 million in merchandise prizes were given away. Staff saw no regulatory concerns associated with persons selling only merchandise, to warrant licensure of such individuals and recommended the Commission deny the petition. At the September 2003, meeting, the Commission denied the petition and asked staff to review agency pricing restrictions to determine if alternatives existed to address the petitioner's concerns.

After six months of review, staff recommended removing discriminatory pricing restrictions from merchandise prizes. This would mean distributors would be treated the same as unlicensed persons/entities selling merchandise prizes, including Costco and Wal-Mart. Pricing restrictions on these products contribute little to the agency's regulatory program. The change has been discussed at several Study Sessions and all distributors have been notified by mail and asked to comment. Comments listed under ITEM 11(b) "statements against the proposed rule change" and copies attached.

At the August meeting, the Commission held this rules package over to allow Gasperetti's Distributing time to meet with staff. The rules team met with Mr. Fred Gasperetti and George Panagiotu on August 15. At that meeting, Mr. Gasperetti stated he felt it was vital to the protection of the pull-tab industry to maintain pricing and credit restrictions on merchandise prizes. At the meeting, Mr. Gasperetti requested that we add language in our rules so distributors do not have to accept returned merchandise prizes from operators. Additionally, Mr. Gasperetti proposed the agency license persons "soliciting" pull-tab operators to purchase merchandise prizes.

Staff remains in support of the proposed changes. Furthermore, the issue of the Commission regulating credit and pricing restrictions will be brought forward as part of a rules reduction program in the near future.

Statements against the proposed rule change.

See this section under ITEM b.

Which licensees will be directly impacted?

Pull-tab manufacturers, distributors and operators with merchandise pull-tab games.

What are the potential impacts to the agency?

Minimal

Staff recommendation.

Adoption.

Effective Date.

January 1, 2005



Rule Up For Final Action

Proposed Amendment to

WAC 230-12-340

Sale of gambling equipment, devices, supplies, paraphernalia, and related services -- Credit prohibited -- Exceptions.

ITEM 11 (b) on the September 10, 2004, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff, at the request of the Commission.	
Why is this rule change needed?	
<p>WAC 230-12-340 prohibits the extension of credit on gambling equipment and related products, with the exception of credit extended for capital lease agreements. Staff proposes removing restrictions on selling punch board/pull-tab merchandise prizes on credit. Pull-tab merchandise prizes account for a small portion of the pull-tab prize market, about 1% of pull-tab prizes given away in 2003 (336 million in cash prizes vs. 3.6 million in merchandise prizes). Currently, there are 36 licensed distributors in Washington.</p> <p>Only Washington State has credit restrictions on merchandise prizes. Due to a few pricing and credit problems, Minnesota no longer allows manufacturers or distributors to sell merchandise prizes to pull-tab operators. It can be argued that there are no significant problems now, so credit restrictions on pull-tab merchandise prizes should be eliminated, because these debts are better handled in the civil arena, rather than by the Commission. Others may contend credit restrictions are the reason there are few problems.</p> <p>Removing merchandise prizes from credit restrictions has been discussed at several Study Sessions and all distributors have been notified by mail and asked to comment. At this time, two distributors have submitted written opposition and Spokane Pull-Tab and Bingo Supply opposed via a phone call. Staff would like to open the agency's policy on the use of credit to purchase punch board and pull-tab merchandise prizes restrictions for discussion.</p>	
Statements against the proposed rule change.	
<u>Attachments:</u> 1) Letter dated August 3, 2004, from Hughes & Panagiotu, representing Gasperetti's Distributing opposing the proposed change. 2) Letter dated April 8, 2004, from Gasperetti's Distributing opposing removing pricing and credit restrictions. 3) E-mail dated April 2, 2004, from McCoy's Distributing, opposing removing pricing and credit restrictions. 4) Letter dated April 1, 2004, from Hughes & Panagiotu, representing Gasperetti's Distributing, noting they are neutral on removing discriminatory pricing restrictions and they are opposed to removing credit restrictions. 5) Letter dated March 25, 2004, from staff to pull-tab distributors notifying them of proposed rule change. 6) Spokane Pull-Tab and Bingo Supply opposed via a phone call.	
Which licensees will be directly impacted?	
Pull-tab manufacturers, distributors and operators with merchandise pull-tab games.	
What are the potential impacts to the agency?	
Minimal.	
Staff recommendation.	
Adoption.	
Effective Date.	
January 1, 2005	